

SUPPLEMENTAL

Memorandum

42-04
COUNCIL AGENDA: 03-30-04

ITEM: 3.4

3.5

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson
James R. Helmer

SUBJECT: PUBLIC HEARING ON
SIDEWALK REPAIRS

DATE: March 26, 2004

Approved

Kay Winer

Date

3/29/04

COUNCIL DISTRICT: City-wide

SNI: NA

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL MEMO

To report on the results of the Sidewalk Repair Administrative Hearings that were held on March 3-4, 2004 to ensure that the property owners have the opportunity to discuss the outstanding charges with staff prior to placement of the potential liens. Additionally, the memorandum presents the Final Report of the Directors of Finance and Transportation to the City Council on the Cost of Sidewalk Repairs (report).

RECOMMENDATION

Accept the attached Final Report of the Directors of Finance and Transportation and direct staff to continue with the lien process for properties identified in the report.

BACKGROUND

Two notices of public hearing were sent to 116 property owners on February 18, 2004 and February 25, 2004. The mailings were necessary to properly notify potential lien candidates of the date and time of the public hearing, the impending lien on their property, and provide an opportunity to attend an Administrative Hearing with Department of Transportation staff held on March 3-4, 2004.

ANALYSIS

Subsequent to the public hearing notification process, 49 of the 116 property owners originally notified settled outstanding issues and/or amounts related to sidewalk repairs. As part of the

notification and resolution process, staff from the Department of Transportation participated in administrative hearings with 16 property owners, 12 of which are included with the 49 property owners who have settled outstanding issues and are no longer subject to the lien process. Results of the administrative hearings and staff recommendations are indicated below:

Account #116160

Recommendation: Reduction of the original invoice from \$262.41 to \$150.41 and removal from the lien process. The reduced amount was paid in full by the property owner.

Account #115393

Recommendation – Reduction of the original invoice from \$488.25 to \$177.00 and continuation of the lien process for the reduced amount. The property owner had performed some sidewalk repair work prior to the City's contractor completing the work.

Account #117159

Recommendation – Reduction of the original invoice from \$980.00 to zero and removal from the lien process. The property owner provided documentation that the home is owner-occupied and qualifies for a grant.

Account #115408

Recommendation – Reduction of the original invoice from \$1,280.20 to zero and removal from the lien process. The property owner qualifies for a hardship grant based on income.

Account #115429

Recommendation - Reduction of the original invoice from \$470.75 to zero and removal from the lien process. The property owner provided documentation that the home is owner-occupied and qualifies for a grant.

Account #115768

Recommendation – Reduction of the original invoice from \$2,150.25 to zero and removal from the lien process. The property owner provided documentation that the home is owner-occupied and qualifies for a grant.

Account #116698

Recommendation – Reduction of the original invoice from \$1,306.05 to zero and removal from the lien process. The property owner provided documentation that the home is owner-occupied and qualifies for a grant.

Account #115766

Recommendation – Reduction of the original invoice from \$295.75 to \$148.00 and removal from the lien process. The reduced amount was paid in full by the property owner.

Account #115493

Recommendation – Reduction of the original invoice from \$505.75 to zero and removal from the lien process. The property owner provided documentation that the home is owner-occupied and qualifies for a grant.

Account #115387

Recommendation – Reduction of the original invoice from \$470.75 to zero and removal from the lien process. The property owner qualifies for a hardship grant based on income.

Account #115589

Recommendation – Reduction of the original invoice from \$4,195.75 to zero and removal from the lien process. The property owner qualifies for a hardship grant based on income.

Account #116080

Recommendation – Reduction of the original invoice from \$1,129.45 to \$572.65 and continuation of the lien process. The property owner has agreed to pay the reduced amount.

Account #115410

Recommendation – Reduction of the original invoice from \$313.25 to zero and removal from the lien process. The property owner provided information that the home is owner-occupied and qualifies for a grant.

Account #116489

Recommendation - Staff met with the property owner several times to review sidewalk repair issues. Repairs were completed per City standards. Staff recommends continuing with the lien process for the full amount due of \$4,985.50.

Account #116105

Recommendation – Reduction of the original invoice from \$3,245.00 to 1,800.00 and removal from the lien process. The property owner has agreed to a payment plan of \$150 for twelve months.

Account #114661

Recommendation – Continuation with the lien process for the full amount due of \$851.20. Staff spoke with the property owner on numerous occasions. The property owner has protested the City policy requiring property owners to maintain sidewalks fronting their property. The property owner has indicated willingness to pay the amount due prior to the lien recording date, in which case, the property owner will be removed from the lien process.

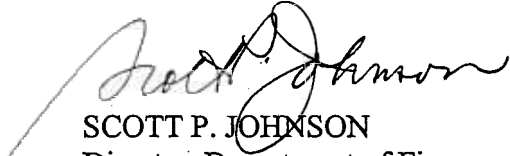
CONCLUSION

The lien notices and the Administrative Hearing process were successful. Forty-nine (49) property owners have agreed to pay their outstanding invoices or have paid in full. The attached Report of the Directors of Finance and Transportation represents the current and complete list of property owners that are delinquent in paying for work performed by the City of San Jose for the cost of sidewalk repairs. Once the public hearing is held, property owners remaining on the Directors Report will have until the lien recording date (April 9, 2004) to pay the amount in full to avoid a property lien from being recorded with the County Recorder's Office.

HONORABLE MAYOR AND CITY COUNCIL
Subject: Public Hearing on Sidewalk Repairs
03/26/04
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COORDINATION

This supplemental memorandum has been coordinated with the Department's of Transportation and Finance and the City Attorney's Office.



SCOTT P. JOHNSON
Director, Department of Finance



JAMES R. HEMLER
Director, Department of Transportation

attachment

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Department of Finance and Transportation

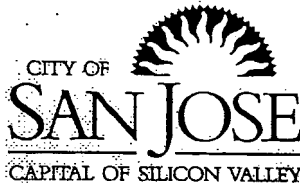
Report of the Director's of Finance and Transportation to the City Council on the Cost of Sidewalk Repairs

30-Mar-04

ACCT#	ASSIGN	APN	AMOUNT	FEE	TOTAL
102269	11/4/98	434-10-004	\$ 4,365.00	\$ 11.00	\$ 4,376.00
109519	1/30/02	264-38-003	\$ 1,266.25	\$ 11.00	\$ 1,277.25
109528	1/30/02	434-11-072	\$ 2,639.25	\$ 11.00	\$ 2,650.25
113767	1/23/03	447-04-017	\$ 624.25	\$ 11.00	\$ 635.25
114140	2/25/03	467-07-047	\$ 714.25	\$ 11.00	\$ 725.25
114661	4/7/03	249-66-017	\$ 851.20	\$ 11.00	\$ 862.20
114682	4/7/03	569-11-021	\$ 1,426.15	\$ 11.00	\$ 1,437.15
114719	4/8/03	434-12-013	\$ 272.20	\$ 11.00	\$ 283.20
114723	4/8/03	451-47-032	\$ 467.20	\$ 11.00	\$ 478.20
114747	4/8/03	477-36-051	\$ 1,915.85	\$ 11.00	\$ 1,926.85
114756	4/8/03	567-51-003	\$ 1,756.25	\$ 11.00	\$ 1,767.25
114757	4/8/03	567-51-004	\$ 2,246.70	\$ 11.00	\$ 2,257.70
115084	5/5/03	235-09-032	\$ 1,448.50	\$ 11.00	\$ 1,459.50
115090	5/5/03	467-17-059	\$ 1,328.25	\$ 11.00	\$ 1,339.25
115114	5/6/03	472-18-018	\$ 1,760.50	\$ 11.00	\$ 1,771.50
115380	5/23/03	695-21-021	\$ 820.75	\$ 11.00	\$ 831.75
115384	5/23/03	684-31-010	\$ 213.75	\$ 11.00	\$ 224.75
115388	5/23/03	649-11-001	\$ 453.25	\$ 11.00	\$ 464.25
115389	5/23/03	497-27-061	\$ 1,870.75	\$ 11.00	\$ 1,881.75
115393	5/23/03	685-08-019	\$ 177.00	\$ 11.00	\$ 188.00
115395	5/23/03	442-19-032	\$ 234.50	\$ 11.00	\$ 245.50
115396	5/23/03	429-21-068	\$ 3,411.35	\$ 11.00	\$ 3,422.35
115416	5/23/03	467-29-013	\$ 453.25	\$ 11.00	\$ 464.25
115433	5/23/03	486-25-005	\$ 393.25	\$ 11.00	\$ 404.25
115437	5/23/03	670-19-020	\$ 217.00	\$ 11.00	\$ 228.00
115450	5/23/03	447-34-060	\$ 476.00	\$ 11.00	\$ 487.00
115497	5/24/03	249-51-018	\$ 3,730.75	\$ 11.00	\$ 3,741.75
115498	5/27/03	467-17-057	\$ 1,286.50	\$ 11.00	\$ 1,297.50
115509	5/27/03	499-09-006	\$ 704.00	\$ 11.00	\$ 715.00
115520	5/28/03	235-07-052	\$ 1,654.50	\$ 11.00	\$ 1,665.50
115521	5/28/03	486-36-013	\$ 768.25	\$ 11.00	\$ 779.25
115526	5/28/03	488-14-044	\$ 983.25	\$ 11.00	\$ 994.25
115531	5/28/03	601-30-012	\$ 940.80	\$ 11.00	\$ 951.80
115591	6/2/03	414-16-028	\$ 457.15	\$ 11.00	\$ 468.15
115601	6/2/03	455-16-021	\$ 202.75	\$ 11.00	\$ 213.75
115604	6/2/03	56911056	\$ 236.60	\$ 11.00	\$ 247.60
115608	6/3/03	274-36-019	\$ 995.75	\$ 11.00	\$ 1,006.75
115610	6/3/03	403-06-230	\$ 447.75	\$ 11.00	\$ 458.75
115706	6/10/03	249-46-047	\$ 1,790.60	\$ 11.00	\$ 1,801.60
115712	6/10/03	467-07-021	\$ 436.10	\$ 11.00	\$ 447.10
115969	6/26/03	092-15-026	\$ 1,105.30	\$ 11.00	\$ 1,116.30

City of San Jose
Department of Finance and Transportation
Report of the Director's of Finance and Transportation to the City Council on the Cost of Sidewalk Repairs
30-Mar-04

ACCT#	ASSIGN	APN	AMOUNT	FEE	TOTAL
115972	6/26/03	274-07-036	\$ 481.60	\$ 11.00	\$ 492.60
115982	6/26/03	587-19-029	\$ 978.25	\$ 11.00	\$ 989.25
115987	6/26/03	687-08-024	\$ 474.25	\$ 11.00	\$ 485.25
116080	7/8/03	486-28-049	\$ 572.65	\$ 11.00	\$ 583.65
116082	7/8/03	488-10-046	\$ 481.60	\$ 11.00	\$ 492.60
116083	7/8/03	491-18-063	\$ 1,361.25	\$ 11.00	\$ 1,372.25
116084	7/8/03	494-59-033	\$ 982.90	\$ 11.00	\$ 993.90
116115	7/8/03	486-04-038	\$ 600.53	\$ 11.00	\$ 611.53
116117	7/8/03	486-09-106	\$ 60.00	\$ 11.00	\$ 71.00
116157	7/10/03	481-10-111	\$ 262.41	\$ 11.00	\$ 273.41
116158	7/10/03	497-24-055	\$ 262.41	\$ 11.00	\$ 273.41
116166	7/10/03	499-26-080	\$ 1,764.50	\$ 11.00	\$ 1,775.50
116311	7/21/03	467-49-029	\$ 628.38	\$ 11.00	\$ 639.38
116313	7/21/03	472-18-006	\$ 2,423.75	\$ 11.00	\$
116489	8/1/03	467-24-097	\$ 4,985.50	\$	
116575	8/12/03	264-43-038	\$ 2,192.15	\$ 11.00	\$ 2,203.15
116586	8/12/03	685-08-003	\$ 1,116.70	\$ 11.00	\$ 1,127.70
116690	8/22/03	092-14-055	\$ 809.00	\$ 11.00	\$ 820.00
116701	8/22/03	587-03-048	\$ 462.50	\$ 11.00	\$ 473.50
116703	8/22/03	591-19-026	\$ 898.35	\$ 11.00	\$ 909.35
116704	8/22/03	592-10-024	\$ 914.45	\$ 11.00	\$ 925.45
116899	9/12/03	477-01-071	\$ 465.50	\$ 11.00	\$ 476.50
116900	9/12/03	486-41-041	\$ 281.00	\$ 11.00	\$ 292.00
117117	10/1/03	261-28-036	\$ 645.25	\$ 11.00	\$
117158	10/2/03	277-25-006	\$ 983.00	\$ 11.00	\$ 994.00
117171	10/3/03	494-31-037	\$ 431.70	\$ 11.00	\$ 442.70
			\$ 73,062.28	\$ 737.00	\$ 73,799.28



46-04
COUNCIL AGENDA: 03/30/04

ITEM: 3.4
3.5

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson
James R. Helmer

SUBJECT: RECORDING LIENS ON
PROPERTY FOR THE COST OF
SIDEWALK REPAIRS

DATE: March 15, 2004

Approved

Ray Winer

Date

3/15/04

Council District: Citywide

SNI: NA

RECOMMENDATION

Adoption of a resolution approving the Report of the Directors of Finance and Transportation on the Cost of Sidewalk Repairs, confirming the assessments contained in the Report, and directing the recording of liens on the property tax roll for the cost of sidewalk repairs.

BACKGROUND

On February 17, 2004, the City Council set a hearing for March 30, 2004 at 1:30 p.m. for public protest and approval of the Report of the Directors of Finance and Transportation to record liens on the property tax roll for the cost of sidewalk repairs the City made on behalf of property owners.

As discussed in the Council Memo that accompanied the setting of the public hearing, State law and the San Jose Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. Sidewalk repair in the City of San Jose is a request-driven program. Residents who contact the Department of Transportation (DOT) regarding a sidewalk in need or repair may request an inspection of the property from DOT staff. If it is determined that the sidewalk needs repair, DOT sends a repair notice to the property owner. DOT works with property owners to facilitate the repairs. In some cases, DOT completes the repairs and attempts to recover the cost of the repairs from the property owner. These repairs are currently funded by the City's General Fund.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Recording Liens on Property for the Cost of Sidewalk Repairs

March 15, 2004

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The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. Finance works diligently to recover expended funds; however, in some cases property owners neglect to pay the outstanding obligations. To recover the costs of these unpaid invoices, the City Council can levy assessments against the defaulting properties at the conclusion of a public hearing process.

ANALYSIS

A Report of the Directors of Finance and Transportation (report) on the costs incurred by the City for sidewalk repairs lists the commercial and rental properties (those not qualifying for a sidewalk repair grant) currently in default. The report currently identifies 93 properties with a proposed total assessment of \$109,050.17. Individual assessments vary from \$71.00 to \$4,996.50, and include an \$11.00 lien-release fee charged by the County Recorder's Office. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the various properties listed.

Sidewalk Repair Program

In August, 1999, DOT began a 100% sidewalk repair grant program for owner-occupied residential property owners to offset the cost of maintaining their sidewalks. To date, more than 30,000 property owners have received assistance through this program. Commercial or rental property owners are not eligible for grants and may either make the repairs themselves or have DOT contract for the repairs.

Sidewalk Repair Collection Process

The City makes every attempt at collecting delinquent sidewalk repair invoices. Over the past three years, approximately 84% of all sidewalk repair invoices were paid without further collection efforts required. The remaining 16% resulted in placing a lien on the property through the County Recorder in which the City ultimately received 99% of the amount due through the County property tax roll. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

Initial invoices for sidewalk repairs are issued by the Department of Transportation (DOT).

Payments are due within 30 days of the initial mailing.

The Finance Department sends delinquency notices once an initial invoice is at least 60 days past due.

The Finance Department may call the property owner, if telephone contact information is available, in further attempts to collect delinquent obligations.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Recording Liens on Property for the Cost of Sidewalk Repairs

March 15, 2004

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Two Notices of Intent to Lien are sent to each delinquent property owner.

- Administrative conferences are held by the Department of Transportation to provide property owners an opportunity to resolve any issues prior to a public hearing.

City Council holds a public hearing and authorizes the placement of liens on delinquent properties.

County Recorder places liens on delinquent property.

County Tax Collector assesses and collects delinquent amount.

The full amount assessed (less a one percent County administrative collection fee) is remitted to the City.

Notification Process

DOT has notified delinquent property owners listed in the report in two separate mailings sent on February 18, 2004 and February 25, 2004. These notifications indicated the time and place of the public hearing while affording property owners an opportunity to schedule an administrative conference as an effort to resolve potential protests prior to the public hearing. Most administrative conferences were held on March 3 – 4, 2004 in the offices of DOT. Additional administrative conferences have been held subsequent to the scheduled dates, providing property owners an opportunity to resolve any issue prior to the public hearing on March 30, 2004. These administrative conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be presented to the City Council in a supplemental memorandum along with the Report of Directors of Finance and Transportation on the cost of sidewalk repairs. This memorandum is expected to be distributed to the Council on Friday, March 26, 2004. After hearing any protests and considering the updated information presented in the supplemental memorandum, the City Council may confirm the Directors' Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve any of the following actions for each assessment:

- Place a lien against the property for the unpaid amount, to be paid with the next annual property tax bill;
- Allow the property owner to pay the assessed amount whether in full or, for assessment over \$100, in no more than five (5) annual installments.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Recording Liens on Property for the Cost of Sidewalk Repairs

March 15, 2004

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COORDINATION

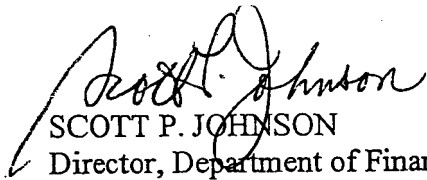
This memorandum has been coordinated with the Departments of Transportation and Finance, and the City Attorney's Office.

COST IMPLICATIONS

The funds (\$108,027.17) used to repair the sidewalks currently listed in the report were advanced from the General Fund.

CEQA

Not a Project


SCOTT P. JOHNSON
Director, Department of Finance


JAMES R. HELMER
Director, Department of Transportation

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